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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-533-885

Polyester Textured Yarn from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyester textured yarn (yarn) from India is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2017 through September 30, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Michael Bowen, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4929 or (202) 482-0768, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on November 19, 2018.¹ Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.² The revised tolled deadline for this preliminary determination was May 6, 2019. In response to the petitioners' request, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 25, 2019.³

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁴ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

¹ *See Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223 (November 19, 2018) (*Initiation Notice*).

² *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

³ *See Polyester Textured Yarn from India and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 84 FR 16843 (April 23, 2019).

⁴ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from India" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from India. For a complete description of the scope of this investigation, *see* Appendix I and “Scope Comments” section below.

Scope Comments

In accordance with the preamble to Commerce’s regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).⁶ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁷ Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.

On May 2, 2019, the petitioners requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language. We intend to address this request in the final determinations of this and the concurrent AD and countervailing duty (CVD) investigations of yarn from India and the People’s Republic of China (China).

⁵ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁶ *See Initiation Notice*, 83 FR at 58233.

⁷ *See* Memorandum, “Polyester Textured Yarn from India and the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated April 26, 2019 (Preliminary Scope Decision Memorandum).

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act and normal values in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences for JBF Industries Limited. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to JBF Industries Limited. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Reliance Industries Limited (Reliance). Consequently, the rate calculated for Reliance is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offset(s)) (percent)
JBF Industries Limited	35.92	28.97
Reliance Industries Limited	17.88	10.93
All Others	17.88	10.78

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, adjusted for export subsidies, as follows: (1) the cash deposit rate for each of the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins as determined in this preliminary determination, adjusted for export subsidies; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin as established for that producer of the subject merchandise, adjusted for export subsidies; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin, adjusted for export subsidies.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion CVD proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the Preliminary Determination section above.⁸

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

⁸ See Preliminary Decision Memorandum for further discussion.

Public Comment

As stated in the Preliminary Scope Decision Memorandum, all interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination.⁹ Case briefs regarding scope issues may be submitted within 10 days after the date of publication of this notice in the *Federal Register*. Rebuttal briefs regarding scope issues, limited to those issues which are raised in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent AD and CVD investigations of yarn from India and China.

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold

⁹ See Preliminary Scope Decision Memorandum.

¹⁰ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On June 13, 2019, pursuant to 19 CFR 351.210(e), Reliance requested in the event of an affirmative preliminary determination, that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹¹ On June 18, 2019, the petitioners also filed a request to postpone the final determination in the event of a negative preliminary determination.¹² In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise;

¹¹ See Letter from Reliance, "Antidumping Duty Investigation of Polyester Textured Yarn from India - Request for Postponement of Final Determination and Provisional Measure Period," dated June 13, 2019.

¹² See Letter from the Petitioners, "Request to Extend the Antidumping Duty Final Determinations," dated June 18, 2019.

and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: June 25, 2019

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination and Extension of Provisional Measures
- V. Application of Facts Available and Use of Adverse Inference
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- XI. Currency Conversion
- XII. Adjustments to Cash Deposit Rates for Export Subsidies
- XIII. Conclusion

[FR Doc. 2019-13982 Filed: 6/28/2019 8:45 am; Publication Date: 7/1/2019]